



Entered on Docket
November 14, 2007

A handwritten signature in dark ink, appearing to read "Linda B. Riegle".

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,

USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

Date of Hearing: October 15, 2007
Time of Hearing: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

ORDER SUSTAINING THE USACM LIQUIDATING TRUST'S TWELTH OMNIBUS OBJECTION AS IT RELATES TO TO CLAIM NO(S). 10725-01542 FILED BY ERNA GRUNDMAN AS IMPROPERLY ASSERTING SECURED STATUS

Erna Grundman filed Proof of Claim No(s). 10725-01542, which asserted a secured claim(s) against USA Commercial Mortgage Company ("USACM").

The USACM Liquidating Trust (the "USACM Trust") filed its Twelfth Omnibus Objection [DE 3155] (the "Objection"), which challenged Erna Grundman's assertion of secured status and sought to have the Court reclassify Erna Grundman's claim(s) as a general unsecured claim(s). The USACM Trust provided proper notice of the Objection to Erna Grundman.

Erna Grundman filed a response to the Objection, opposing it. [DE 3481]

The USACM Trust filed its Motion for Summary Judgment Regarding (1) Responses to the USACM Trust's First Through Thirty-Third Omnibus Objections to Claims Asserting a Secured Status; (2) Responses to USACM Trust's First through Third Omnibus Objections to Claims Asserting a Priority Status; and (3) Newly Alleged Secured and Priority Claims (the "Motion") [DE 4291]. The Motion sought summary judgment on the Objection and asked that the Court sustain the Objection.

The USACM Trust provided appropriate notice of the Motion to Erna Grundman.

Erna Grundman filed an "Objection to Debtors Motion for Summary Judgment" [DE 4492] and a "Response to Debtor's Objection to Claimants Opposition to Motion for Summary Judgment" [DE 4874], both of which opposed the Motion.

The Court heard the Motion on October 15, 2007. Erna Grundman did not appear at the hearing. Counsel for the USACM Trust argued for the Motion.

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1 Based upon the foregoing and good cause appearing,

2 **IT IS HEREBY ORDERED:**

3 1. Granting the Motion [DE 4291] as it relates to Proof of Claim No(s). 10725-
4 01542 filed by Erna Grundman;

5 2. Sustaining the Twelfth Omnibus Objection [DE 3155] as it relates to Proof
6 of Claim No(s). 10725-01542 filed by Erna Grundman; and

7 3. Reclassifying Proof of Claim No(s). 10725-01542 filed by Erna Grundman
8 as a general unsecured claim(s) subject to further objection by the USACM Liquidating
9 Trust.

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11 PREPARED AND SUBMITTED:

12 **LEWIS AND ROCA LLP**

13 By: /s/ RC (#0006593)
14 Susan M. Freeman (pro hac vice)
15 Rob Charles
16 John Hinderaker (pro hac vice)
17 *Attorneys for USACM Liquidating Trust*
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CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of LR 9021.
- ☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below:
- ☐ approved the form of this order;
- ☐ waived the right to review the order;
- ☐ failed to file and serve papers in accordance with LR9021(c); and/or
- ☐ failed to sign and return this proposed order within five (5) business days in accordance with LR 9021(b).
- ☒ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who appeared at the hearing regarding this matter and/or who filed a written objection and all have either approved the form of this order, waived the right to review the order, failed to file and serve papers in accordance with LR 9021(c) and the following have disapproved the form of the order. Erna Grundman
- ☐ No opposition was filed and no other party or counsel appeared at the hearing.

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)

Susan M. Freeman

Rob Charles

Attorneys for USACM Liquidating Trust

APPROVED/DISAPPROVED

Erna Grundman

ERNA GRUNDMAN